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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

JENNIFER DAVETTE FRASER,

Defendant and Appellant.

F066860

(Super. Ct. No. F11905079)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Fresno County. Arlan L. Harrell, Judge.

Conness A. Thompson, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

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* Before Poochigian, Acting P.J., Detjen, J. and Franson, J.

PROCEDURAL SUMMARY

Appellant Jennifer Davette Fraser was charged in an information filed on April 5, 2012, with felony battery causing serious bodily injury (Pen. Code, § 243, subd. (d), count 1).¹ At the conclusion of a jury trial on January 18, 2013, appellant was found guilty of the allegation. Appellant was sentenced on February 21, 2013. The trial court suspended imposition of sentence and placed appellant on probation for three years. A condition of probation was that appellant serve 365 days in county jail, with custody credits of 73 days.

Appellate counsel has filed a brief seeking independent review of the case by this court pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*).

FACTS

On June 14, 2011, Patricia Vasquez went to the “99 Cent Store” in Clovis. Vasquez left the store and turned onto Minnewawa. As Vasquez was coming to a stop for a stop sign at Minnewawa and Gettysburg, the driver behind her honked her horn very loudly. Although Vasquez intended to make a right turn onto Gettysburg, she got nervous or scared and proceeded straight through the intersection.

The occupants of the other car were yelling at Vasquez, who had her windows down. Between the intersections of Minnewawa and Gettysburg and Minnewawa and Ashlan, appellant’s car drove along side Vasquez’s car on the wrong side of the road. The people in appellant’s car were yelling at Vasquez. There was a male in the front passenger seat. Appellant was driving the car. Vasquez thought appellant had bumped Vasquez’s car with appellant’s car at the intersection of Minnewawa and Ashlan.

Vasquez made a left turn onto Ashlan toward Clovis Avenue. Appellant followed right behind Vasquez. Appellant was yelling at Vasquez and was angry. The occupants of the car were flipping Vasquez off. Vasquez was scared. Vasquez was so scared, she

¹ Unless otherwise designated, all statutory references are to the Penal Code.

could not remember if she yelled back at the occupants of appellant's car or if she flipped them off. Appellant drove along both the left and right sides of Vasquez's car.

Vasquez was trying to get into an Arco station at the corner of Clovis and Ashlan. Appellant's car was very close to Vasquez's car. The male passenger was trying to spit on Vasquez. Vasquez later found saliva on her car. Vasquez had to eventually stop her car because there was a red light and several cars in front of her were stopped. Vasquez was trying to get into the driveway of the gas station.

Appellant pulled her car alongside Vasquez's car and spit on Vasquez. The occupants of Vasquez's car were still yelling at her. Vasquez could not remember whether she exited her car. The next thing Vasquez remembered, she was waking up in an ambulance. Vasquez was treated at the hospital for her injuries. Vasquez suffered a crushed left nasal passage and had undergone three surgeries as of the time of trial. Vasquez still suffered headaches and the left side of her nose from the upper lip to the bottom of her nose was still numb.

Amanda Laurie had known appellant her whole life. Laurie was in the car with appellant, appellant's husband, and appellant's two children. According to Laurie, they were stopped behind Vasquez, who left the intersection when the light changed but kept abruptly hitting her brakes. Laurie said that when appellant tried to move around Vasquez on either side, Vasquez would hit her brakes and turn her car toward appellant's car to prevent appellant from passing.

Laurie said Vasquez was flipping off everyone in appellant's car. When the cars stopped, Vasquez was yelling out her window. The cars were stopped side by side. Appellant and Vasquez exchanged words still seated in their cars. Vasquez started to get out of her car. Appellant also exited her car. Appellant and Vasquez were standing outside the open door of Vasquez's car yelling at each other. Vasquez was making threats and threatening gestures to appellant. According to Laurie, appellant was trying to get back into her car and Vasquez spit on appellant.

Laurie said that Vasquez also tried to spit on appellant's husband. At that point, appellant hit Vasquez with one blow to the face. Vasquez fell to the ground. Matthew Vanoni, who was driving by the scene as the confrontation took place, testified that he saw both women arguing. He also saw appellant hit Vasquez. Vasquez fell on her rear and appeared to be shaken. Appellant got into her car and drove away.

Vanoni followed appellant a couple of miles. Vanoni copied the license plate number of appellant's car, felt appellant was aware she was being followed, and decided to leave. Vanoni went back to the scene and gave the license information to a law enforcement investigator.

Appellant testified. She explained that after the two cars stopped, she and Vasquez exited their cars. They had a heated verbal argument and both women were spitting at one another. Vasquez spit on appellant's husband. Appellant's children were crying. Appellant walked over to Vasquez and punched her. Vasquez fell and appellant saw blood. Appellant panicked, and drove away.

APPELLATE COURT REVIEW

Appellant's appointed appellate counsel has filed an opening brief that summarizes the pertinent facts, raises no issues, and requests this court to review the record independently. (*Wende, supra*, 25 Cal.3d 436.) The opening brief also includes the declaration of appellate counsel indicating that appellant was advised she could file her own brief with this court. By letter on August 29, 2013, we invited appellant to submit additional briefing. To date, she has not done so.

After independent review of the record, we have concluded there are no reasonably arguable legal or factual issues.

DISPOSITION

The judgment is affirmed.